IN THE COURT OF APPEALS OF IOWA

No. 0-130 / 09-1259
Filed March 24, 2010

WELLS FARGO FINANCIAL LEASING, INC.,
Plaintiff-Appellee,

vs.

OBRA HOMES, INC.,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Carla T. Schemmel, Judge.

Defendant appeals from the district court's grant of summary judgment in favor of plaintiff. **AFFIRMED.**

David A. Morse of Rosenberg & Morse, Des Moines, for appellant.

Stacie Codr and R. Todd Gaffney of Finley, Alt, Smith, Scharnberg, Craig, Hilmes & Gaffney, P.C., Des Moines, for appellee.

Considered by Sackett, C.J., and Doyle and Danilson, JJ.

DOYLE, J.

Defendant, Obra Homes, Inc., appeals from the district court's grant of summary judgment for plaintiff, Wells Fargo Financial Leasing, Inc. Obra Homes contends the court erroneously viewed the facts in the light most favorable to Wells Fargo, the moving party. We affirm.

In 2005, Wells Fargo and Obra Homes entered into an equipment lease agreement, in which Wells Fargo financed business equipment that Obra Homes was purchasing. Almost immediately after the lease began, Obra Homes discovered the copiers would not operate properly, did not perform routine copying functions, and smelled as though their wires were on fire. Obra Homes defaulted on the agreement, and Wells Fargo filed a breach of contract suit.

Wells Fargo filed a motion for summary judgment. Obra Homes resisted, claiming it revoked acceptance within a reasonable time after discovering the copiers were defective and hazardous. The district court granted summary judgment in favor of Wells Fargo. The court concluded the agreement contained a "hell or high water" provision which made Obra Homes's obligation under the finance lease irrevocable upon acceptance of the copiers, no matter what happened to the copiers after receipt. *See GreatAmerica Leasing Corp. v. Star Photo Lab, Inc.*, 672 N.W.2d 502, 504 (Iowa 2003). The court further concluded the

> agreement entered into between Wells Fargo and Obra [Homes] clearly states . . . that Obra [Homes] waived any remedies it may have had against Wells Fargo based upon any failure of the copiers to function. Under these facts, [Obra Homes's] own action in signing such a contract now preclude any defenses based upon failure of the equipment which was subject to the leases against

> Wells Fargo, and under Iowa law summary judgment is thus appropriate to [Wells Fargo] on this basis.

Accordingly, the district court entered judgment against Obra Homes.

In its sole argument on appeal, Obra Homes maintains the district court erred in viewing the facts in the light most favorable to Wells Fargo, the moving party. For almost forty years Iowa courts have been required, in considering a motion for summary judgment, to view the record in the light most favorable to the opposing party. *See Sherwood v. Nissen*, 179 N.W.2d 336, 339 (1970). Obra Homes's argument hinges upon one sentence contained in the court's order. In the midst of the paragraph setting forth boilerplate summary judgment law, the court stated: "In determining whether summary judgment is proper, the Court must view the pleadings and other documents in the manner most favorable to the non-moving parties, which in this case is the *plaintiff*." (Emphasis added.) The use of the word "plaintiff" in the sentence was an obvious error since it was the plaintiff that filed the motion. In viewing the court's order as a whole, and in the context of the case, one can only characterize the court's use of the word "plaintiff" in the sentence as a typographical error. In today's world of electronic "cutting and pasting" such errors are commonplace. As Wells Fargo states in its brief:

> Moreover, there are absolutely no facts from which to infer that the experienced district court judge, who undoubtedly handles and has ruled upon numerous summary judgment motions, is unknowing of the fundamental standards applicable to review of a summary judgment motion.

We agree.

In reviewing the order, we conclude the district court fully understood that Wells Fargo was the moving party and that Obra Homes was resisting as the non-moving party. Additionally, the district court accurately articulated the correct standards applicable to the review of a summary judgment motion. Further, the court cited to the appropriate rule and case law. There is nothing in the record to indicate the court failed to apply the applicable standards of review. It is plainly evident that the trial court's erroneous use of the word "plaintiff" in one sentence of its order was merely a typographical error. Therefore, we cannot conclude the court erroneously viewed the record in a light most favorable to Wells Fargo, the moving party.

AFFIRMED.